Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter Of	)	
	)	
Universal Service Reform	)	**WT Docket No. 10-208**
	)	
Mobility Fund	)	
	)	

REPLY COMMENTS OF THE BENTON FOUNDATION, THE NEW AMERICA FOUNDATION, THE OFFICE OF COMMUNICATION, INC. FOR THE UNITED CHURCH OF CHRIST

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SUMMARY

The Benton Foundation[1] (Benton), the New America Foundation Wireless Future Project[2] (NAF) and the Office of Communication, Inc for the United Church of Christ[3] (UCC) (collectively, "Public Interest Commenters"), respectfully submit this reply to comments on the Federal Communications Commission's ("FCC" or "Commission") Public Notice seeking input on the proposed Mobility Fund.[4] The proposed Mobility Fund would provide non-recurring support to providers to deploy 3G (3rd generation wireless services). Public Interest Commenters support the general premise of the Mobility Fund, which reallocates reclaimed high-cost support to expand the availability of broadband services in areas where there are none or where such services are deemed to be inadequate. However, the Public Interest Commentors believe, before reclaimed universal service support can be used for the proposed mobility fund the FCC must first make a determination that the 3G mobile expansion falls under the statutory definition of "supported services". The Public Interest Commentors also believe that the proposed reverse

[1] The Benton Foundation[1] works to ensure that media and telecommunications serve the public interest and enhance our democracy. Benton pursues this mission by seeking policy solutions that support the values of access, diversity and equity, and by demonstrating the value of media and telecommunications for improving the quality of life for all. Benton is also a member of the Federal Communication Commission's (Commission) Consumer Advisory Committee (CAC) and through which Benton is a member of the broadband subcommittee. Benton has long advocated for the ubiquitous telecommunications access for all citizens.

[2] The Wireless Future Project, which is part of New America's Open Technology Initiative, develops and advocates policy proposals to promote universal, affordable and ubiquitous broadband and improve the public's access to critical wireless communication technologies. It seeks to promote fair and efficient use of the airwaves to unlock the full potential of the wireless age for all Americans.

[3] The United Church of Christ[3] is a faith community rooted in justice that recognizes the unique power of the media to shape public understanding and thus society. For this reason, UCC's Office of Communication, Inc. (OC, Inc.) works to create just and equitable media telecommunications structures that give meaningful voice to diverse peoples, cultures and ideas. Established in 1959, OC Inc. ultimately established the right of all citizens to participate at the Federal Communications Commission as part of its efforts to ensure a television broadcaster in Jackson, MS served its African-American viewers during the civil rights movement.

[4] In the Matter of Universal Service Reform – Mobility Fund, WT-Docket No. 10-208, *Notice of Proposed Rulemaking*, FCC 10-182 (Oct. 14, 2010) (*hereinafter* "NPRM").

auction process is at odds with principles of universal service and should be targeted to unserved areas with the greatest need. The Public Interest Commenters also believe that performance requirements need to favor forward-looking advanced services and public interest requirements that include data roaming, non-discrimination and interconnection. Finally the Public Interest Commentors urge the Commission to seek out examples of best practices for mobility expansion programs around the world.

I. BEFORE PROCEEDING WITH THE MOBILITY FUND THE COMMISSION MUST FIRST MAKE A DETERMINATION THAT 3G MOBILE SERVICES FALL UNDER THE STATUTORY DEFINITION OF SUPPORTED SERVICES.

Section 254 of the Communications Act defines supported services by way of four criteria. First the service must be essential to education, public health, or public safety; also the service must have, through the operation of market choices by customers; been subscribed to by a substantial majority of residential customers; also must be deployed in public telecommunications networks by telecommunications carriers; and finally services must be consistent with the public interest, convenience, and necessity.[5] The Public Interest Commenters also agree that the Commission has yet to determine the "essential" nature of 3G mobile services. Additionally, according to the comments submitted by Free Press, "…less than 20 percent of the population subscribes to mobile wireless data services."[6] The Public Interest Commenters agree with the comments of Free Press and others that rightly call into scrutiny whether 3G services meet the "substantial majority" criterion in the statute. [7]

[5] 47 U.S.C. § 254(c)(1).
[6] Comments of Free Press, at 2.
[7] Id at 2, Comments of Florida Public Service Commission, p. 4., Comments of National Association of State Utility Consumer Advocates, p. 2-5, Comments of The Greenlining Institute, p. 5-6.

II. THE PROPOSED REVERSE AUCTION PROCESS IS AT ODDS WITH PRINCIPLES OF UNIVERSAL SERVICE AND SHOULD BE TARGETED TO UNSERVED AREAS WITH THE GREATEST NEED

A. The Proposed Per-Unit Bidding Process is Biased Against Rural Areas With the Greatest Need and Will Likely Subsidize Areas That Can Rely on Private Investment

The Commission's proposed structure for the reverse auction is severely flawed and at odds with the statutory purposes and principles of universal service. The NPRM proposes to compare all per-unit bids on a nationwide basis and to award support based on the lowest per-unit bid regardless of the geography or demographics of the unserved census block.[8] The Public Interest Commenters concur with Native Public Media and the American Indian Congress, Free Press, the Rural Cellular Association and others who observed that this design will inevitably direct these scarce universal service funds at mostly urban and suburban areas that are most likely to be served without public subsidies – while excluding areas that are demonstrably unlikely to support a commercial 3G or 4G buildout without subsidy.[9]

In its comments, Free Press correctly asserts that the proposed per-unit bidding process "would lead to subsidies in the areas where carriers are the most likely to deploy services in the months ahead as the mobile data market continues to mature . . . while other areas without mobile voice or wired data services continue to remain unserved."[10] The Rural Cellular Association notes that "[u]nfortunately, the FCC's proposal unduly, and unjustly, favors carriers proposing to expand service to geographic areas with the highest density, since these areas can be served at the lowest per-unit cost."[11] As a result, "carriers will bid only in areas where they can provide incremental service based on existing infrastructure *(e.g.,* existing towers, backhaul facilities, existing

[8] *NPRM*, ¶ 18.
[9] *See, e.g.,* Joint Comments of Native Public Media and National Congress of American Indians, *NPRM,* WT Docket No. 10-208 (Dec. 16, 2010); Comments of Free Press, *NPRM,* WT Docket No. 10-208 (Dec. 16, 2010); Comments of Rural Cellular Association, *NPRM,* WT Docket No. 10-208 (Dec. 16, 2010).
[10] Comments of Free Press, at 3.
[11] Comments of Rural Cellular Association (RCA), at 8.

marketing outlets) that combine the least cost and most potential revenues."[12] As Native Public Media, et al. correctly concludes, this particular type of "reverse auction" is designed such that "funds will be awarded to carriers who serve the *least* rural areas of the United States."[13]

A precise targeting of universal service support is particularly important if the Commission decides to cap the Mobility Fund at no more than $300 million, the upper end of the range proposed in the NPRM. This amount is grossly inadequate if the goal is coverage in virtually all currently unserved (and populated) areas. Advanced wireless service infrastructure is costly and entirely lacking in areas where commercial offerings would be marginally profitable, if at all. As RCA observed, based on the costs of its rural carrier members, "each $100 million in funding would only be sufficient to build approximately 250 - 400 new cell sites."[14] Based on Commission estimates,[15] T-Mobile in its comments notes that the total cost of the wireless broadband "investment gap" – the support needed to extend mobile broadband services to unserved areas over and above what private companies are likely to spend – is roughly $4 billion, an amount slightly greater than the $3.9 billion in high-cost support expected to be recaptured from Verizon and Sprint over a ten-year period.[16]

Moreover, the Mobility Fund will provide support limited to the one-time capital costs of infrastructure, without any guarantee concerning the level of ongoing support from high-cost or

[12] Comments of Native Public Media, et al., at 6.
[13] *Ibid.*
[14] Comments of RCA, at 9.
[15] *Connect America Fund*, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657, 6805 (2010) (Appendix C: Omnibus Broadband Initiative Technical Paper No. 1, *The Broadband Availability Gap)*. The Commission's $12.9 billion estimate of the total investment gap (private and public) for providing wireless broadband to the unserved population nationwide was for fixed wireless, but nevertheless provides a rough approximation of the overall investment needed. *See also* National Broadband Plan at 137, Exh. 8-B.
[16] Comments of T-Mobile USA, Inc., at 8 and n. 14, citing National Broadband Plan, at 138.

other universal service programs in the future.[17] However, since the Communications Act mandates that "rural, insular, and high cost areas" should have access to services "that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable,"[18] the only policy consistent with Act is one that targets available funding to prioritize areas that are least likely to achieve "an evolving level of telecommunications services"[19] without universal service support.

B. Unserved Areas Should be Prioritized Based on Metrics Indicating that Unsubsidized Private Investment is Unlikely

Rather than prioritize low-cost and mostly urban and suburban areas that are *most* likely to be built out without public support over the next few years, the Commission should prioritize for funding those areas that are *least* likely to be built out over the next three-to-five years because the geography and/or demographics make them insufficiently profitable based on commercial wireless business models.

Whether or not a "reverse auction" is the mechanism by which a single provider is ultimately selected to receive Mobility Fund support to extend coverage to particular census blocks in a census tract, as the NPRM proposes, the census blocks (and/or tracts) should first be rank-ordered for funding based on geographic and/or demographic criteria indicating the area is among those least likely to be covered by unsubsidized market investment within a reasonable period of time. At a minimum, no populated census block that is covered adequately with wireline broadband should be prioritized for Mobility Fund support ahead of a census block lacking either terrestrial wireline or 3G or more advanced wireless connectivity. As Free Press

[17] NPRM, at ¶ 8 (proposed Connect America Fund is intended to address support for broadband on an ongoing basis).
[18] 47 U.S.C. § 254(b)(3).
[19] 47 U.S.C. § 254(c).

opined its comments, "it is both inequitable and counter to the Act for the Commission to use scarce USF funds for 3G services in areas that may already have wired broadband, while millions of low-income and rural Americans lack basic fixed broadband."

Public Interest Commenters therefore urge the Commission to determine and distribute Mobility Fund support based on a process that initially rank orders unserved census blocks based on the demographic characteristics of the area (whether at the census tract, zip code or county level). An example of this methodology can be found in *Wireless Broadband and the Redlining of Rural America*, a 2010 economic study published by the New America Foundation (and attached as an appendix to these comments).[20] The study examines 80 counties in 29 states. In each state, it pairs counties with the highest rate of 3G and 4G wireless broadband coverage and counties with the lowest rate of such coverage. The primary finding is that more than 70% of the variation in wireless broadband deployment in those counties is accounted for by five variables:

- population density;
- median household income;
- number of firms per square mile;
- percentage of population classified as rural by the U.S. Department of Commerce; and
- whether or not 75% of the county's area is within five miles of an interstate highway.

The study concludes that 8-to-10 percent of rural America is likely to be permanently redlined by the incumbent wireless broadband providers because in those areas population density, median household income, and levels of commercial activity are too small to permit efficient aggregation of demand and too much of its geographic area is too remote from primary infrastructure

[20] Gregory Rose, *Wireless Broadband and the Redlining of Rural America*, New America Foundation, Wireless Future Program, April 2010.

(Internet backbone, interstate highways) to permit cost-effective deployment. This creates conditions under which deployment to such rural areas would depress the rate of return of wireless broadband providers sufficiently that the stock value of those providers would be punished by financial markets.[21]

The study suggests that census blocks or tracts with certain demographic and geographic characteristics are demonstrably most likely to be left with no market remedy for being on the wrong side of the digital divide. "Only government intervention in the form of direct public investment in deployment of wireless broadband infrastructure and/or subsidized service to these areas will prevent their permanent, market-driven redlining," the study concludes.[22]

Public Interest Commenters do not suggest that these are the precise or only metrics that the Commission should use to rank-order census blocks/tracts for prioritization to receive Mobility Fund support, but they do suggest an alternative to the Commission's proposal to fund only the lowest per-unit cost bids on a nationwide basis regardless of whether the area is objectively likely or unlikely to be covered in the near future by commercial providers regardless of government support. For example, considering the amount of total funding available, the Commission may decide to further refine the results of a screen using such characteristics to further prioritize census blocks that exceed a certain minimum population density (since although rural areas will deserve a higher prioritization on average, it would also not be cost effective to fund coverage over extremely remote and unpopulated areas ahead of equally needy but more populated areas).

[21] *Ibid*, at 2.
[22] *Id.*, at 3.

C. Actual Coverage Quality and State Broadband Mapping Data Should be Considered in Identifying 'Unserved' Areas

The Commission proposes to use American Roamer data as the sole means of identifying service areas that will qualify for Mobility Fund support.[23] While the self-reported carrier data aggregated by American Roamer may well provide a very rough approximation of the reality of 3G and 4G mobile service coverage, it should not be considered fully reliable at the very granular level of a census block, and must not be the ultimate arbiter of whether a local area is or is not eligible for federal universal service support. Although it is not mentioned in the NPRM, the Commission's National Broadband Plan raised multiple caveats concerning the reliability of American Roamer data, particularly as a means of determining whether *actual* signal strength achieves true broadband bitrates in a locality. The Plan cautioned:

> These measures [of the share of U.S. population covered by 3G] likely overstate the coverage actually experienced by consumers, since American Roamer reports *advertised* coverage as reported by many carriers who all use different definitions of coverage. In addition, these measures do not take into account other factors such as signal strength, bitrate or in-building coverage, and they may convey a false sense of consistency across geographic areas and service providers. . . .
>
> Further, the underlying coverage maps do not include information on the level of service (i.e., signal quality and the speed of broadband service) provided; nor is coverage defined by providers in the same way. Thus, coverage as measured here does not correspond to a specific minimum signal quality or user experience.[24]

While American Roamer coverage data may be the most practical starting point, Public Interest Commenters propose that the Commission take two further steps before concluding that a census block or tract is ineligible for support. First, overlay the American Roamer data with the state broadband mapping data that will soon be aggregated by NTIA under the Broadband Data Improvement Act program. While many if not most states also rely on American Roamer data, if

[23] *NPRM* at ¶ 22.
[24] National Broadband Plan, Chapter 4, Section 1 and note 31.

a census block is not considered by a state to be covered, then it should be presumably eligible for consideration for Mobility Fund support.

Second, prior to any auction or other selection procedure for Mobility Fund support, the Commission should publish the list of census blocks it considers to be unserved (by state and county) and invite evidence from any credible party (for example, local governments, wireless providers or NGOs) that additional census blocks lack effective coverage at the quality of actual service that the NPRM proposes to use to verify "proof of deployment" after the fact from parties supported by the Mobility Fund. The NPRM proposes a "proof of deployment" at 3G or better service quality to be an "outdoor minimum of 200 kpbs uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH.[25] ." If a local area submits credible drive test data showing it does not currently receive service at this level or better, it should also be included in the pool of census blocks/tracts that would be rank-ordered for potential Mobility Fund support.

D. Tribal Lands Have a Documented Need for Mobility Fund Prioritization

As the NPRM and the National Broadband Plan point out, approximately 90 percent of Native Americans living on Tribal lands lack access to broadband.[26] Tribal lands "are often in rural, high-cost areas, and present distinct connectivity challenges."[27] The Commission notes that Tribes will need "substantially greater financial support" to accelerate broadband development and that it believes "addressing Mobility Fund support for Tribal lands on a separate track will be

[25] *NPRM* at ¶ 40.
[26] *NPRM*, at ¶ 33; National Broadband Plan at 152.
[27] *Ibid.*

beneficial in providing adequate time to coordinate" with Tribal governments and to seek their input.

Public Interest Commenters support this "separate track" to the extent that it results in an adequate Tribal Mobility Fund that is mutually agreeable to Tribal governments and tailored to meet their special needs. More specifically, we concur with the recommendations in the Comments filed by Native Public Media and the National Congress of American Indians concerning the merits of setting aside a separate and substantial Tribal Mobility Fund that serves the needs of Indian Country residents and is not "awarded to carriers who predominantly wish to provide service to roads that bisect Indian Country."[28] As Native Public Media, et al. recommend, "[p]reference should be given to carriers who propose to serve all, or a significant majority, of the population of any Tribal lands . . . [and] priority should be given to applicants that propose service to Tribal anchor institutions, rather than solely to residential or business users."[29]

III. PERFORMANCE REQUIREMENTS NEED TO FAVOR FORWARD-LOOKING ADVANCED SERVICES AND PUBLIC INTEREST REQUIREMENTS THAT INCLUDE DATA ROAMING, NON-DISRIMINATION AND INTERCONNECTION

A. Funding Should Prioritize 4G Technologies and at a Minimum Require that Subsidized Networks be Readily Upgradeable to 4G Services

The NPRM proposes to use the Mobility Fund to support the availability of networks providing mobile communications services "comparable or superior to … commonly available 3G technologies" that currently cover approximately 98 percent of the population.[30] The NPRM

[28] Comments of Native Public Media and National Congress of American Indians, at 8.
[29] *Ibid,* at 9.
[30] *NPRM*, at ¶ 37.

asks whether supported networks should be "required to provide data rates comparable to 4G networks" or, alternatively, "be required to present a path to 4G service."[31]

While the Commission should not disqualify currently deployed 3G technologies from eligibility for funding, it should adopt a clear preference in its selection process for 4G network capabilities. As the NPRM acknowledges, the Communications Act mandates that the services to be provided are "an evolving level of telecommunications services . . . taking into account the advances in telecommunications and information services."[32] The time frame for Mobility Fund distributions and the buildout requirements anticipated by the NPRM suggest that supported networks will not be fully built out for at least two to three years. By that time it seems likely that a substantial majority of U.S. homes and businesses will already be covered by at least one 4G network. The applications likely to be available on these networks – such as two-way videoconference calling and streaming high-quality video – are unlikely to be available to consumers in areas without 4G service. Since the Communications Act also requires that universal service policies follow the principle that consumers in "rural, insular, and high cost areas" have access to services "that are reasonably comparable to those services provided in urban areas,"[33] it seems clear that the Commission must give a preference to qualified bidders offering to deploy network capabilities that will not be inferior to what the market will by the time of deployment be providing in major urban markets.

The Commission should *at a minimum* require that any network infrastructure supported by the Mobility Fund be readily upgradeable to *true* 4G service capability, whether LTE, WiMax or a comparable technology offering substantially higher data rates than HSPA, EV-DO or other

[31] *Ibid.*
[32] *Id.*, at ¶ 6, citing 47 U.S.C. § 254(c).
[33] 47 U.S.C. § 254(b)(3).

"commonly available 3G technologies" in service today. In addition, operators seeking support for 3G technologies should also be required to document a reasonable plan and timeline for the upgrade to 4G service, such that the "required … path to 4G service" becomes a specific and credible condition of the Mobility Fund support.

B. The Commission Must Promote Competition by Ensuring Data Roaming at Reasonable Rates and Tower Collocation

Public Interest Commenters fully support the Commission's "proposals to encourage possibilities for competition" in the geographic areas in which it provides Mobility Fund support by requiring that recipients offer tower collocation and data roaming on reasonable and non-discriminatory terms.[34] Even if the Commission decides to prioritize unserved areas with the greatest apparent need for public support, as we propose above, the NPRM's proposed single-winner auction method will install a government-funded monopoly provider in these markets. It is therefore imperative that the Commission impose conditions that will at least, as the NPRM describes it, "encourage *possibilities* for competition." Without binding and permanent conditions requiring that supported networks offer tower collocation and automatic data roaming on reasonable and non-discriminatory terms – as well as the additional consumer protections proposed in the next section – there is not even much "possibility" for competition and consumer choice in the foreseeable future.[35]

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[34] *NPRM*, at ¶ 36.

[35] *See* Federal Communications Commission, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, Fourteenth Report, 25 FCC Rcd. 11407 (2010) (Fourteenth Report).* This report departed from its predecessors in failing to find effective competition in the combined market for wireless voice, data, and text services. *See also* Comments of Consumer Federation of America, Consumers Union, Free Press, Media Access Project, New America Foundation, and Public Knowledge, WT Docket No. 09-66 (June 15, 2009), at 15-16 (*Public Interest CMRS Competition Comments*).

We therefore agree with the Rural Cellular Association's observation that data roaming is a "fundamental building block for bringing ubiquitous broadband to rural America."[36] Steadily increasing consolidation and lack of effective competition in the wireless industry has already reduced the number of potential roaming partners and given the dominant carriers the ability to block the consumers of rural and regional carriers from obtaining seamless data roaming at reasonable rates.

The comments of Native Public Media and the National Congress of American Indians state that in their experience carriers have "sometimes exploited [tower location] rights as monopoly assets to keep out competition that could increase service and drive down prices for Native Americans." Public Interest Commenters concur with the recommendation of Native Public Media, et al. that "[a]ny carrier receiving funding from the Tribal Mobility Fund should be required to offer reasonable collocation opportunities to competitive carriers, especially for Tribal, government and public safety uses."[37]

C. The Commission Must Protect Consumers by Ensuring Non-Discrimination and Interconnection Requirements Similar to What Congress Ordered as Conditions on BIP and BTOP Recipients

In addition to conditions concerning tower collocation and automatic data roaming, the Commission must also condition Mobility Fund grants for publicly subsidized networks by imposing the same non-discrimination and interconnection requirements that Congress mandated as a condition of recent and similar grants under the American Recovery and Reinvestment Act

[36] Comments of RCA, at 13 and note 25.
[37] Comments of Native Public Media and National Congress of American Indians, at 13.

of 2009.[38] As Free Press observed in its Comments, "[t]he United States Congress overwhelmingly decided that broadband deployment subsides must be tied to strong non-discriminatory protections."[39]

The Obama Administration faithfully reflected Congressional intent by requiring that all applicants for BIP or BTOP funding for broadband infrastructure projects must agree to the following conditions:

> **Nondiscrimination and Interconnection**
> All Broadband Infrastructure (both BIP and BTOP) applicants, must commit to the following Nondiscrimination and Interconnection Obligations:
> *i.* adhere to the principles contained in the FCC's Internet Policy Statement (FCC 05-151, adopted August 5, 2005);
> *ii.* not favor any lawful Internet applications and content over others;
> *iii.* display any network management policies in a prominent location on the service provider's web page and provide notice to customers of changes to these policies (awardees must describe any business practices or technical mechanisms they employ, other than standard best efforts Internet delivery, to allocate capacity; differentiate among applications, providers, or sources; limit usage; and manage illegal or harmful content);
> *iv.* connect to the public Internet directly or indirectly, such that the project is not an entirely private closed network; and
> *v.* offer interconnection, where technically feasible without exceeding current or reasonably anticipated capacity limitations, on reasonable rates and terms to be negotiated with requesting parties. This includes both the ability to connect to the public Internet and physical interconnection for the exchange of traffic.
> Applicants must disclose their proposed interconnection, nondiscrimination and network management practices with the application.[40]

Although the Commission's recently-adopted Open Internet Order declines to impose the full scope of these nondiscrimination provisions on all mobile wireless carriers at this time, the conditions that should attach to federally-funded infrastructure is a different matter entirely. As

[38] *See* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009). For requirements, see Broadband Initiative Program, Broadband Technologies Opportunity Program, Notice of Funds Availability and Solicitation of Applications, "Non-discrimination and Interconnection Obligations," 74 Fed. Reg. 33104 at 33110 (July 9, 2009).
[39] Comments of Free Press, at 3.
[40] Notice of Funds Availability (NOFA), Broadband Initiatives Program (BIP) and Broadband Technology Opportunities Program (BTOP), Rural Utilities Service (RUS) and National Telecommunications and Information Administration (NTIA), August 14, 2009, at 29.

Free Press noted in its Comments, regardless of how the Commission chooses to deal with this issue industry-wide, the Commission cannot ignore recent Congressional intent concerning federal grants to fund broadband infrastructure and give away scarce ratepayer dollars with no associated public interest obligations to protect consumers.[41]

IV. THE COMMISSION SHOULD REVIEW SIMILAR MOBILE SERVICE EXPANSION PROGRAMS FOR BEST PRACTICES

The Japanese government realized the cell phone dead zones problem and proposed *Closing Digital Divide Strategy*[42] in 2008, which aimed to close digital divide by expanding mobile cell phone coverage and reaching additional 0.2 million mobile users by 2010.

In order to solve mobile phone dead zones and bridge digital divide, Japanese government initiated subsidy program by providing 1/2 to 2/3 of total cost to local governments, non-profit organization and private sectors to build cell phone base stations, towers, transmission lines and (satellite) wireless Internet. Japanese government was planning to spend $3.3 million for base stations and $0.5 million for transmission lines. The mobile wireless networks are required to be opened up to mobile virtual network operators (MVNO) with equal treatment.

The subsidy will be utilized in rural and disadvantageous areas such as low-density areas, remote islands, mountain village and mountain villages with heavy snow. Cell phone coverage will be expanded particularly in state and interstate high ways, high-speed rails and tunnels. MIC also provides funds for promoting development of wireless technologies such WiMax, Wireless LAN, economical and simplified base station, and earth and satellite converging mobile phones.

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[41] Comments of Free Press, at 4.
[42] MIC, *Closing Digital Divide Strategy*. 2008. (translated) http://www.soumu.go.jp/menu_news/s-news/2008/pdf/080624_3_bt2.pdf

In addition, the Japanese Ministry of Internal Affairs and Communication also proposed a rule to promote femtocells to expand mobile phone coverage as part of the strategy.[43]

CONCLUSION

While the Public Interest Commentors agree that the expansion of mobile services is a worthy goal, we agree that there are a number of concerns that need to be addressed if the Commission is to make the most of the reclaimed Universal Service Funds. First and foremost, the Commission must address whether 3G mobile services meet statutory requirements to receive funding under the Universal Service Fund program. Public Interest Commentors also urge the Commission to consider a number of problems and potential fixes for the reverse auction mechanism suggested in the NPRM. We also believe that the need to choose the most forward looking technology and public interest requirements (including data roaming, non-discrimination and interconnection) are even more imperative if the Commission decides to create a monopoly mobile broadband provider in various unserved areas by determining awards of support through a single winner reverse auction. Networks that are open for interconnection offer a more scalable infrastructure that encourages multi-use networks and thereby enables a greater return on investment for the public. Most importantly, only open, nondiscriminatory networks will ensure that free expression, the creation of content, and full participation in civic society and more equal economic opportunity will remain unfettered. Finally as the Commission seeks solutions to the problem of gaps in mobile coverage, we urge the Commission to consider the solutions in use around the world. The Public Interest Commentors thank the Commission for

[43] MIC, *Guideline of Femtocell Utilization based on Radio Law and Telecom Business Law*. 2008. (translated) http://www.soumu.go.jp/menu_news/s-news/2008/pdf/081202_7_bs2.pdf

this opportunity to participate and looks forward to working with the Commission in the development of robust and modernized Universal Service programs.

Respectfully submitted,

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